

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the: Those public highway crossings of the tracks of the Soo Line Division of the Canadian Pacific Railroad lying westerly of the City of Portage in the Town of Lewiston, Columbia County, Wisconsin

9150-RX-528

FINAL DECISION

By letter dated December 5, 2001, the Columbia County Highway and Transportation Commissioner, on behalf of the Town of Lewiston, petitioned the Office of the Commissioner of Railroads (OCR) for the closure of the public crossing of the Soo Line tracks by Konkell Road in the Town of Lewiston, Columbia County (crossing no. 390-773R) and the abandonment by the Railroad of a bridge structure. The Commissioner directed Staff to investigate such potential closing together with the status as to safety and public convenience of all other public crossings of those tracks in the Town of Lewiston lying west of the City of Portage including Boeck Road (390-762D), Industrial Road (390-764S), Maass Road (390-767M), Weyh Road (390-769B) and Wolfram Road (390-771C). Pursuant to due notice, a hearing was held on July 11, 2002 and continued on October 22, 2002 with Hearing Examiner David J. Meier presiding. In addition, a settlement conference was held on February 17, 2003 at the request and with the assistance of State Senator Robert Welch and State Representative J. A. Hines, who represent the area. This proposed order is based on the evidence received and on the consensus reached at that conference.

The Parties to this proceeding are the Town of Lewiston and the Soo Line Railroad Company as to all the subject crossings, and the City of Portage as to Boeck Road. In addition, due consideration and deference is given to the City of Portage by the Hearing Examiner and the Town of Lewiston in regard to the future interest it may have as to Industrial Road as that road relates to the City's development of an industrial park in the area.

The parties were represented in this proceeding as follows:

The Town of Lewiston by its Town Board, comprised of Mr. Leon Heinze, Chairman, and Board members, Dean Walker and Randal Miller;

The City of Portage by its Mayor, Mr. Jeff G. Grothman;

The Soo Line Railroad Company by Mr. James Krieger, Manager of Public Works;

Of the Office Staff: Mr. David Schwengel and Mr. Thomas Clauder, Rail Safety Analysts.

In addition to the parties and their representatives, 20 persons registered at the hearing, virtually all of which opposed all closures, opposed the possible reconstruction of the Konkell Road bridge and supported signalization of crossings that might remain open.

FINDINGS OF FACT

Overview: The Wisconsin River runs from Northwest to Southeast between the Cities of Wisconsin Dells and Portage, a distance of about fourteen miles. There are no highway crossings of the River between Highway 16 at the River in Wisconsin Dells and Highway I-39 just west of Portage.

The Soo Line Railroad track lies North of the River and follows its flood plain as it traverses the same route between Wisconsin Dells and Portage through the Towns of Newport and Lewiston. The total distance between the Cities is about fourteen miles, six of which lie in the Town of Newport and about eight in the Town of Lewiston. For most of that distance, and for the entire corridor studied in this proceeding, two public highways also lie parallel to the River and the tracks. For most of the studied corridor, State Trunk Highway 16 runs immediately adjacent to the Railroad on its north side. Columbia County Highway 'O' meanders along the Railroad on its south, on average splitting the approximate distance of one mile lying between the Railroad and the River. Both of these Roads connect the rural environs of the area with the City of Portage.

The railroad currently operates 25 through freight train movements per day over the corridor at a timetable speed of 60 mph. The railroad also operates 2 Amtrak passenger trains per day through the corridor at a timetable speed of 79 mph. Current protective devices at all at-grade crossings, except Industrial Road, consist of reflective cross bucks, with or without highway stop signs. In light of the volume and speed of rail traffic, the present warning devices, except at Industrial Road, are inadequate for the protection of the public. However, they will remain adequate until installation of replacement devices ordered herein is complete.

Accidents that occur in this corridor are likely to be quite serious due to the 60-79 mile per hour speed of the trains. Train speed is strongly correlated with fatalities in train/vehicle accidents. More specifically, crossings with train speeds of 40 mph and over have a disproportionate number of fatalities. According to Federal Railroad Administration statistics, in 1994, 71% of the fatalities which occurred in train vehicle accidents in this country occurred at crossings where train speeds exceeded 40 mph, even though only 26% of all crossings had train speeds of 40 mph+.

The Konkel Road bridge and all of the other five crossings that are the subject of this proceeding may be seen as connectors between County Trunk Highway 'O' south of the tracks and State Trunk Highway 16 north of the tracks. They provide north-south ingress to and egress from that one-mile wide strip of land lying between the Railroad and the River. Such ingress and egress is in addition to that provided by County Trunk Highway 'O' itself, which allows east-west travel in and out of the area. None of these connectors carry a sufficient volume of traffic to justify the required expenditure of about \$125,000.00 per crossing to install 12" automatic flashing lights, gates and constant warning time circuitry.

The number of crossings in this corridor exceeds what is reasonably justified to provide the traveling public with ingress and egress to this contained area. The closure of two of the presently active crossings in this corridor would be reasonable, would contribute to public safety

and would save the public funds otherwise required to signal and gate those crossings.

Since traffic will still need to get from one side of the tracks to the other, closure of two crossings will not reduce the total number of potential train/vehicle conflicts. Frequently, it is suggested that spreading the traffic over two crossings instead of one crossing would be safer. The contrary is actually true. The fewer the points of conflict the less likely a conflict is to occur. Closing the two crossings will eliminate two points of conflict and that will increase safety due to the "queuing" effect. The queuing effect works to reduce accidents because it reduces the number of drivers that must make a decision to stop for an approaching train. In essence, after one driver stops, other drivers are much less likely to pass and go across the tracks. The queuing effect works because it favorably influences driver behavior at the precise moment of danger, when a train is approaching the crossing.

The **hearing examiner recommends** that the Konkell Road Bridge be abandoned and removed, that the Maass Road crossing be closed at the present time, that the Industrial Road Crossing be closed by July 1, 2005 and that the balance of the crossings considered in this proceeding remain open with improved warning devices.

The Konkell Road Bridge is a steel truss timber deck bridge that was constructed in 1914. Maintenance of the bridge was neglected by the current owner's predecessor in title, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Its petition to abandon the bridge in the early 1970's was rejected. But neither it nor its successor undertook to honor its duty to maintain the bridge. As a result, it was necessarily closed to traffic by the Town of Lewiston, is now beyond repair and constitutes an attractive nuisance. Members of the Town Board of Lewiston testified that expenditure of the necessary funds to reconstruct the bridge, in light of the probable use by the public, would constitute a waste of money. Subsequent to the hearing in this matter, the Township proposed its removal as part of the resolution of this matter. Due to existing topographical features at the site, its replacement with a crossing at grade is not feasible. Therefore, the safety of the public is best served with the removal of the bridge and the closure of the crossing.

Wolfram Road is twenty feet wide and intersects the railroad tracks at an angle of 80 degrees measured in the southeast quadrant. It carries about 100 vehicles per day at a legal speed limit of 35 miles per hour. Immediately South of the tracks, the roadway rises at an ascending grade of about 4% to a small crest. This crest restricts visibility of a motorist approaching from the South until within about 350 feet of the crossing. The descent of 4 degrees from the point of first visibility to the crossing significantly increases the danger presented by this crossing to the traveling public, particularly in slippery or foggy conditions. The required safe stopping distance for a vehicle approaching this crossing at 35 miles per hour is 300 feet. A train moving toward this crossing at 79 miles per hour would have to be seen by the driver of such a vehicle from the crest of the hill when the train is still 900 feet from the crossing. The visibility available at the crossing is insufficient. Rail Safety Analysts of this Office recommend the closure of this crossing. However, Wolfram Road also serves an area lying North and Northeast of the crossing and local citizens and the Town Board all strongly wish to keep this crossing open to travel and those wishes will be given consideration. The crossing is presently protected with reflective crossbucks. Those warning devices are inadequate. The protection of public safety requires the installation of automatic lights, gates and constant warning time circuitry. The existing warning devices will adequately serve until such time as new warning devices are

installed.

Weyh Road is 22 feet wide and intersects the tracks at an angle of about 80 degrees measured in the northwest quadrant. Its approaches are more nearly level than those of Wolfram Road, but they are, in other respects, very similar. Weyh Road carries about 100 vehicles per day. The legal speed limit is 55 miles per hour; however, the short distance between County Trunk "O" and State Trunk Highway 16, probably limits most travelers to about 35 miles per hour.

Rail Safety Analysts of this Office recommend either the closure of Weyh Road or Maass Road, which is the next crossing to the East, but deferring to local wishes as to the selection. Their report indicates a sharp turn to the Southeast in Weyh Road, just South of the crossing which, together with roadside vegetation, obscures visibility of the crossing to a northbound motorist. Weyh Road, however, also serves an area lying North and East of the crossing. Its utility, in doing so, is somewhat enhanced by locating its Southern terminus at County Trunk "O" rather than at State Trunk Highway 16. Further, a clear majority of witnesses at the hearings in this matter favored the preservation of this crossing over that at Maass Road.

It should be noted that the Emergency Management Director for Columbia County initially testified in favor of retaining Maass Road over Weyh Road for the delivery of emergency services. Subsequent to the hearing, however, and at a meeting at which all parties were in attendance, he retracted that position and, instead, indicated that retaining Weyh Road would be the better choice. Since this last assertion was not made a part of the hearing record, it is found that either Maass Road or Weyh Road will adequately serve for the delivery of emergency services.

Safety and the public interests are best served by allowing this crossing to remain open. The present warning devices, crossbucks and highway stop signs, are inadequate, given the frequency and speed of train movements through this crossing and the roadway contours affecting the approach from the South. Adequate protection of the public requires the installation of automatic lights, gates and constant warning time circuitry. The existing warning devices will be adequate until such time as new warning devices are installed.

Maass Road is approximately twenty feet in width at the crossing. It is relatively straight and level in its approaches to the tracks, as it is essentially built through a wetland that lies just South of the tracks. The wetland conditions produce fast growing vegetation which tends to obscure vision near the tracks. Further, the roadway floods in elevated water conditions. Maass Road carries about 55 vehicles per day and terminates about .75 miles South of the crossing at County Trunk Highway "O". About three residences are built on Maass Road, all of which could use County Trunk Highway "O" as alternate ingress and egress.

As is indicated above in the discussion of Weyh Road, the recommendation of the Safety Analysts in this matter was that either Maass Road or Weyh Road be closed, with the selection being made according to local wishes. While the position of the Town Board was that they preferred the retention of all crossings in the Township, it was the clear preference of the Board and the citizen witnesses that the closure of Maass Road would cause a lesser inconvenience to the traveling public than would the alternate closure of any other Town Road. It is, therefore, found that Maass Road should be closed.

Industrial Road stands, with Boeck Road, as alternatives to each other for potential closure. Both serve to connect County Trunk Highway 'O' to State Trunk Highway 16. Both terminate at those same two roads. They each run north-south and are separated by one mile, with Industrial Road lying west of Boeck Road.

Industrial Road serves industrial plants located on its East side and north of the tracks. These plants generate considerable traffic by trucks as well as automobiles. Most of the traffic from these plants enter and exit from State Trunk Highway 16 at Industrial Road's northern terminus. This route grants more rapid access to all major highway systems in the area. This means of ingress and egress also avoids the use of the crossing.

Industrial Road extends south of the tracks only a distance of approximately one-quarter mile to County Trunk Highway 'O'. Those using this southerly portion of Industrial Road will not be greatly inconvenienced by a closure of this crossing, as they will have ready access to this County Trunk.

Vision triangles are deficient at the Industrial Road crossing. With a train speed of 79 miles per hour, the timetable speed at this crossing for the Amtrak trains in this area, a motorist traveling 55 miles per hour needs to see, from a point 560 feet preceding the tracks, an approaching train when it is 900 feet from the crossing. The available sight distance down the track from the safe stopping distance on the roadway is as follows: about 10 feet in the northwest quadrant, 100 feet in the southwest quadrant, 50 feet in the southeast quadrant and 170 feet in the northeast quadrant.

Two train-vehicle accidents have occurred at this crossing since 1973, one involving a fatality. Current protective devices at the Industrial Road crossing consist of automatic gates with 12-inch incandescent flashing lights and a warning bell. An industrial siding also crosses Industrial Road and this crossing is currently protected with a single crossbuck. These devices were installed, at least in part, in response to these accidents. It is the finding of the Hearing Examiner that the installation of these devices at Industrial Road were the erroneous result of the failure at that time to address the issues presented by the corridor as a whole. A more comprehensive examination leads to the conclusion that the Industrial Road crossing should be closed in favor of upgrading the protection at Boeck Road.

Boeck Road is about 25 feet in width at the crossing and intersects the tracks at an angle of about 80 degrees measured in the northwest quadrant. Boeck Road presently carries only about 125 vehicles per day. Its approaches to the tracks are essentially level. It is currently protected only with reflectorized crossbucks and highway stop signs.

The southeast quadrant of the crossing on Boeck Road is occluded as to visibility due to the existence of a berm and other topographical features. Mayor Grothman assured that the City would see to the removal of these visual impediments, if Boeck Road were kept open at the crossing. This cooperation is appreciated, as it would greatly contribute to safety at this crossing in future years.

It is important to consider that Boeck Road forms the western city limit of the City of Portage in the area of the tracks. The City of Portage, therefore, must be accorded respect in regard to its land use planning as that influences its need for future traffic routes. Mayor Grothman testified

that the City has an industrial park on Boeck Road south of the tracks. This industrial park is near or approaching full occupancy. It is the intention of the City to expand the industrial park or develop additional acreage for the same use in an area that would result in heightened vehicular use of Boeck Road. At the time of the hearing in this matter, Mayor Grothman believed that those plans would mature within a time frame of about two years. The City plan calls for the widening and improvement of Boeck Road to form access to Highway 16 for industry related traffic from this development. In light of this municipally planned development and the related use of Boeck Road, the functionality of that road must be maintained and the protective devices at its crossing upgraded.

In summary, then, that narrow stretch of land lying between the Wisconsin River and State Trunk Highway 16 in the Town of Lewiston has been served by a larger number of roads than is appropriate or necessary. As a result, most of the crossings considered in this corridor are traveled only lightly and some are redundant. Due to heavy rail traffic in the corridor moving at relatively high speeds, there is real and growing danger to the traveling public calling for the provision of protective devices meeting current standards. The expenditure of the required \$125,000 for each crossing so protected can only be justified by the consolidation of traffic over fewer crossings. The safety of the traveling public is best served by the closure of two of these crossings, in addition to the closure of the Konkell Road Bridge, and the signalization of those crossings left open.

End-of-Road Treatment:

Konkel Road. The order requires the Soo Line Railroad Company to permanently remove the structure of the Konkell Road Bridge. The removal of the bridge abutments, however, would cause the erosion and sloughing of the slopes of the cut through which the rail right-of-way passes at the site of the bridge. They shall, therefore, be left in place for the purpose of supporting the embankments. The order calls for the complete removal of the bridge, other than the abutments, by August 1, 2004. That portion of Konkell Road between the bridge site and County Trunk Highway 'O' serves only a power substation, the driveway of which will serve as a vehicle turnaround. The existing roadway of Konkell Road lying between the bridge site and Lewiston Station Road was, at the time of hearing, the subject of a petition for abandonment by the owner of adjacent lands. The Township indicated that it would so abandon in the event that the bridge was ordered removed. Turnarounds are, therefore, deemed unnecessary at both terminal ends of Konkell Road at the tracks. The order does require that the Town of Lewiston install permanent steel guardrail barricades at the juncture of Konkell Road and the southerly line of the railroad right-of-way.

Maass and Industrial Roads. The order requires the closing of Maass Road and the obliteration of the roadway surface on the railroad right-of-way and extending northerly to State Trunk Highway 16. No turnaround is necessary on Maass Road north of the tracks. The order does, however, require the Town of Lewiston to construct and maintain a turnaround on the southerly approach of Maass Road to the crossing and on both northerly and southerly approaches to the present crossing of Industrial Road. The Town of Lewiston may construct any non-cul de sac turnaround design consistent with the AASHTO's, *"A Policy on Geometric Design of Highways and Streets,"* 2001 edition. Specifically, the Commissioner approves L-type, T-type, Y-type or I Branch turnarounds as shown in AASHTO Exhibit 5-8 (page 399). These

turnaround designs are adequate for the low volume of traffic that would be using either of these roads after the crossings are closed.

The order also requires the Town of Lewiston to install Type III barricades with red and white reflective material on each approach to the crossing. These are temporary barricades that the Town is required to replace with permanent steel guardrail barricades when it constructs the vehicle turnarounds.

Costs:

Normal OCR practice is to apportion the costs associated with crossing closures between the railroad and the local road authority. These apportioned costs typically would include the construction of vehicle turnarounds, installation of barricades and removal of the crossing and roadway surfaces. However, this process was precipitated by the neglect or refusal of the Chicago, Milwaukee, St. Paul and Pacific Railway Company to obey its statutory obligations to maintain the bridge at Konkell Road. Those neglectful practices with respect to the bridge were continued by the Soo Line Railroad Company after their acquisition of the line. A grade separated crossing is the only truly safe crossing for the travelling public. The continued neglect of the bridge resulted in substantial unjust enrichment of the Railroad and in the ultimate and predictable loss of the grade separated crossing to the public. Equity demands that the costs associated with both the closings and the signalization in this corridor, a sum perhaps exceeding \$300,000.00, be assessed to the Railroad.

CONCLUSIONS ON THE ISSUES

1. That the closure of the Konkell Road bridge crossing and of the crossings at-grade of the Soo Line Railroad Company tracks with Maass Road and Industrial Road in the Town of Lewiston, Columbia County will promote public safety and convenience.

2. That in order to adequately protect and promote public safety, it is necessary to install and maintain automatic gates with 12-inch LED automatic flashing lights and Constant Warning Time circuitry (CWT) at the crossings at-grade of the Soo Line Railroad Company tracks with Wolfram Road, Weyh Road and Boeck Road in the Town of Lewiston, Columbia County. In light of the reasoning expressed above, it is reasonable that the Soo Line Railroad Company pay for these improvements in their entirety.

3. That it is reasonable for the Soo Line Railroad Company to pay 100% of the costs associated with the closures ordered herein, including the construction of vehicle turnarounds, installation and maintenance of barricades (except those for temporary use), and removal of the crossing and the roadway approaches within Railroad right-of-way. However, it is also reasonable that the cost of temporary barricades and the continued and ongoing maintenance of turnarounds and permanent barricades become the obligation of the Town of Lewiston.

CONCLUSION OF LAW

That the jurisdiction of the Office of the Commissioner of Railroads under §§195.28 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

ORDER

I. Konkel Road Bridge

1. That the **Konkel Road** crossing of the tracks of the Soo Line Railroad in the Town of Lewiston, Columbia County (crossing no. 390-773R) is hereby closed.
2. That the **Soo Line Railroad Company** shall completely remove the bridge structure for the grade-separated crossing of **Konkel Road** with their tracks in the Town of Lewiston, Columbia County, together with any roadway surface for that road that may exist on its right-of-way by **August 1, 2004**. The abutments for that bridge, however, shall be left in place for the support that they lend to the embankments over which the approaches to the bridge previously ran.
3. The **Town of Lewiston** shall advise the Office of the Commissioner of Railroads within thirty days of this order of its intentions relative to the abandonment of that part of **Konkel Road** between the railroad right-of-way and Lewiston Station Road so that a supplemental order may be issued, if necessary, for end of road treatment of Konkel Road North of the tracks.

II. Maass Road

1. That the **Soo Line Railroad Company** shall remove the crossing surface and the roadway approaches within its right-of-way for the crossing at-grade of Maass Road with their tracks in the Town of Lewiston, Columbia County between **August 1, 2004 and September 1, 2004** (crossing no. 390-767M).
That the **Town of Lewiston** shall remove and obliterate that part of Maass Road lying between the railroad right-of-way and the right-of-way of State Trunk Highway 16 in that same period of time.
2. That in conjunction with the removal of the crossing, the **Town of Lewiston** shall, at its expense, install Type III barricades with red and white stripes at or near the terminus of the Southern approach to the crossing at-grade of **Maass Road** with the Soo Line Railroad Company tracks in the Town of Lewiston, Columbia County by **August 1, 2004** [see Sections 3F-1, 6C-8 and Figure 6-14 in the Manual on Uniform Traffic Control Devices (MUTCD)].

3. That the **Town of Lewiston** shall install and maintain a steel guard barricade with reflective red and white stripes and an L-type, T-type, Y-type or I Branch turnaround at or near the termini of the southern approach of **Maass Road** to the present crossing consistent with American Association of State Highway and Transportation Officials (AASHTO) guidelines (*A Policy on Geometric Design of Highways and Streets*, 2001 edition, pages 398-400 and Exhibit 5-8) in the Town of Lewiston, Columbia County by **December 1, 2004**.
4. That the **Soo Line Railroad Company** shall give notice in writing to the Town of Lewiston at least 10 days prior to commencing work to close the crossings.

III. Industrial Road

1. That the **Soo Line Railroad Company** shall remove the crossing surface and the roadway approaches within its right-of-way for the crossing at-grade of **Industrial Road** with their tracks in the Town of Lewiston, Columbia County between **August 1, 2007 and September 1, 2007** (crossing no. 390-764S).
2. That in conjunction with the removal of the crossing, the **Town of Lewiston** shall install, at its expense, Type III barricades with red and white stripes at or near the terminus of both approaches to the crossing at-grade of **Industrial Road** with the Soo Line Railroad Company tracks in the Town of Lewiston, Columbia County by **August 1, 2007** [see sections 3F-1, 6C-8 and figure 6-14 in the Manual on Uniform Traffic Control Devices (MUTCD)].
3. That the **Town of Lewiston** shall install and maintain a steel guard barricade with reflective red and white stripes and an L-type, T-type, Y-type or I Branch turnaround at or near the termini of both approaches of **Industrial Road** to the present crossing consistent with American Association of State Highway and Transportation Officials (AASHTO) guidelines (*A Policy on Geometric Design of Highways and Streets*, 2001 edition, pages 398-400 and exhibit 5-8) in the Town of Lewiston, Columbia County by **December 1, 2007**.
4. That the **Soo Line Railroad Company** shall give notice in writing to the Town of Lewiston at least 10 days prior to commencing work to close the crossing.

IV. Wolfram and Weyh Roads

1. That the **Soo Line Railroad Company** shall install 12-inch LED automatic flashing lights with gates and constant warning time circuitry with appropriate appurtenances in accordance with such plans as are filed with and approved by the Office of the Commissioner of Railroads at the at-grade crossings of its tracks with **Wolfram Road** (crossing no.390-771C) and **Weyh Road** (crossing no. 390-769B) in the Town of Lewiston, Columbia County by **December 1, 2004**.

2. That the **Soo Line Railroad Company** shall submit to the Office of the Commissioner of Railroads and to the Wisconsin Department of Transportation signal and circuit plans for the installations contemplated herein, together with a notice of its intent to commence work at least 10 days prior to such commencement.
3. The cost of these installations shall not be reimbursed with public funds, but shall remain the responsibility of the **Soo Line Railroad Company**.

V. Boeck Road

1. That the **Soo Line Railroad Company** shall install 12-inch LED automatic flashing lights with gates and constant warning time circuitry with appropriate appurtenances in accordance with such plans as are filed with and approved by the Office of the Commissioner of Railroads at the at-grade crossing of its tracks with **Boeck Road** (crossing no. 390-762D) in the Town of Lewiston, Columbia County by **September 1, 2007**. This installation shall be performed in conjunction with the closure of Industrial Road. To the extent feasible, the existing signal equipment may be reused at the Boeck Road crossing. The Soo Line Railroad Company shall advise the Office of the Commissioner Of Railroads, not less than 10 days prior to commencement of this installation, as to the equipment that it deems appropriate for reuse. All costs associated with this installation shall be borne by the **Soo Line Railroad Company** and shall not be reimbursed by public funds.
2. That the **Soo Line Railroad Company** and the **City of Portage** shall consult together and shall coordinate, to the extent possible, the Railroad's compliance with this order and the completion of the improvements contemplated by the City for its expanded industrial park and any modifications to **Boeck Road** that may thereby become necessary. The **City of Portage** shall, within 90 days, and from time to time thereafter as may be appropriate, advise the Office of the Commissioner of Railroads as to those planned improvements so that modifications to this order might be considered to accommodate their project.
3. That the **City of Portage** shall remove that berm presently existing in the Southeast quadrant of the **Boeck Road** crossing so as to eliminate the obstruction that it presents to visibility of drivers of north-bound vehicles. Good faith compliance with this order would provide an unobstructed view of any train on the track within 300 feet of the crossing from the vantage point of a northbound driver in a vehicle also 300 feet from the crossing.

VI. General Conditions

1. This order calls for the building of turnarounds by the **Town of Lewiston**, but with the cost of such construction to be paid by the **Soo Line Railroad Company**. In any such case where the cost of a turnaround should be expected to exceed \$5,000.00, the **Town of Lewiston** shall advise the Soo Line Railroad Company and the Office of the Commissioner of Railroads of that planned construction and the proposed cost. On the request of the Soo Line Railroad Company made within 15 days after such notice, the Office of the Commissioner of Railroads shall conduct a supplemental hearing as to the said costs and enter a supplemental order as may be deemed proper in the circumstances.
2. The **Soo Line Railroad Company** shall bear the costs assessed against it pursuant to Section 195.60, Stats. for the investigation of this matter by the Office.
3. That jurisdiction is retained.

Dated at Madison, Wisconsin this ____ day of July, 2004.

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen, Commissioner

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